

## **REMARKS**

### **Status of the Claims**

Claims 22, 24, 25, and 27-32 are currently pending. Claims 1-20, 23, and 26 were previously canceled. Claim 21 is presently canceled. Claims 22, 25, and 27 are amended without prejudice or disclaimer, according to the Examiner's suggestions. Claims 24 and 28-32 are allowed. Claims 22 and 27 were previously withdrawn. However, in the present Office Action, claims 22 and 27 are examined. No new matter is entered by way of these amendments. Reconsideration is respectfully requested.

### **Issues Under 35 U.S.C. § 112, Second Paragraph**

Claims 21, 22, 25, and 27 are rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite, *see Office Action*, page 3. Specifically, the Examiner alleges that claims 25 and 27 are indefinite because the phrase "the cells having phagocytosis or cytotoxic activity" lack antecedent basis, *see Office Action*, page 3. In addition, the Examiner states that claim 21 is indefinite because it is directed to a method for the production of the single-chain polypeptide according to claim 28, but claim 28 is directed to diabody-type bispecific antibodies that comprise two single chains, *see Office Action*, page 3.

The Examiner further states that the rejections of claim 21 and claim 22 would be overcome by canceling claim 21 and amending claim 22 to specify "culturing a host cell transformed with a nucleic acid encoding a first polypeptide of claim 28, culturing a host cell transformed with a nucleic acid encoding a second polypeptide of claim 28, expressing the nucleic acids, collecting the expressed first and second polypeptides, purifying the first and second polypeptides, and assembling the first and second polypeptides to form the diabody-type bispecific antibody of claim 28." In addition, the Examiner indicates that the phrase "assembling the single-chain polypeptides produced by the method of claim 28 to form a diabody-type bispecific antibody" should be canceled.

Claim 21 is canceled. Accordingly, the rejection is moot in regard to this claim.

Although Applicants do not agree that claims 22, 25 and 27 are indefinite, claim 22 is amended according to the Examiner's suggestion in order to expedite prosecution. Further,

claims 25 and 27 are amended to specify “cells expressing CD3, and having phagocytosis or cytotoxic activity”, as suggested by the Examiner, (*see below*). Applicants submit that claims 25 and 27, as amended, do not include phrases having improper antecedent basis. Accordingly, Applicants believe the rejection under 35 U.S.C. §112, second paragraph, is overcome and respectfully request withdrawal of the rejection.

**Issues Under 35 U.S.C. 112, First Paragraph, Enablement**

Claims 25 and 27 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly lacking enablement, *see Office Action*, pages 4-6. Specifically, the Examiner states that the instant application allegedly does not provide enablement support for increasing the production of any cells having phagocytosis or cytotoxic activity, *see Office Action* page 4. In addition, the Examiner states that the instant application allegedly does not enable methods where the culture system contains tumor cells that express any EGF receptor, *see Office Action*, page 4.

The Examiner further states that this rejection would be obviated by amending claim 25 and claim 27, *see Office Action*, page 5. Specifically, the Examiner states that the rejection to claim 25 would be overcome by amending the claim to specify “cells expressing CD3, and having phagocytosis or cytotoxic activity”, *see Office Action*, page 6, In addition, the Examiner recommends that claim 27 be amended to specify “increasing the production of cytokines by cells expressing CD3, and having phagocytosis or cytotoxic activity, comprising adding the diabody-type bispecific antibody according to Claim 28 to a culture system containing the cells expressing CD3, and having phagocytosis or cytotoxic activity, and tumor cells expressing the human EGF receptor, HER-1/ErbB1”, *see Office Action*, page 6.

Although Applicants do not agree that the specification does not enable claim 25 and 27, the claims are amended according to the Examiner’s recommendation in order to expedite prosecution. Accordingly, the rejection is obviated and Applicants respectfully request the rejection be withdrawn.

**CONCLUSION**

In view of the above amendment and remarks, Applicants believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Linda T. Parker, Reg. No. 46,046, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 

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